United Nations E/C.12/2016/SR.4

Economic and Social Council

Distr.: General
26 February 2016

Original: English

Committee on Economic, Social and Cultural Rights

Fifty-seventh session

Summary record of the 4th meeting
Held at the Palais des Nations, Geneva, on Tuesday, 23 February 2016, at 3 p.m.

Chair: Mr. Abashidze (Vice-Chair)

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In the absence of Mr. Sadi, Mr. Abashidze, Vice-Chair, took the Chair.

The meeting was called to order at 3 p.m.

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Initial report of Namibia (continued) (E/C.12/NAM/1; E/C.12/NAM/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Namibia took places at the Committee table.*

2. **Mr. Dyakugha** (Namibia), replying to a question raised at the previous meeting concerning the lack of judicial enforcement of Covenant rights, said that the Government recognized the need to raise public awareness of those rights and the legal remedies available in the event of violation. To that end, it was considering, among other things, publishing the text of the Covenant and other international human rights treaties ratified by Namibia in the official gazette. A number of NGOs were active in disseminating information on those treaties and in helping individuals to bring cases of human rights violations before the courts.

3. **Ms. Pickering** (Namibia) said that free universal education had been introduced in the State primary and secondary sectors in 2013 and 2016, respectively. However, parents could, if they so wished, make voluntary contributions to a school development fund that was used, among other things, to upgrade sports facilities. Fees were charged for the use of accommodation facilities. As part of a national scheme, children in all government schools were provided with one meal per day.

4. **Mr. Kayala** (Namibia) said that the high levels of unemployment among the rural population reflected the fact that most people lived in the countryside. Although the 1997 employment policy was still in force, the Ministry of Labour and Social Welfare was looking at ways to update it. Under the Labour Act, workers in essential services were not allowed to engage in industrial action; however, they were able to refer grievances to the Office of the Labour Commissioner. Labour inspectors were mandated under the Act to conduct inspections on farms and in other workplaces. The Ministry worked with stakeholders in the mining sector, among others, to raise awareness of statutory regulations on workplace health and safety. Although the wage commission provided for under the Labour Act had yet to be established, the Ministry of Labour exercised the powers vested in it in order to ensure compliance by employers with minimum wage legislation.

5. **Ms. Likando** (Namibia) said that the Government had instructed the Social Security Commission to extend its benefits, including the National Pension Fund and the National Benefit Fund, to cover all those working in both the formal and informal sectors. Consideration was being given to establishing an unemployment insurance fund that would extend the protections offered under current schemes. Although there was no provision for paternity leave as such, it was possible under the Public Service Act for male employees to apply for special leave should they need paternity leave.

6. **Ms. Böhlke-Möller** (Namibia) said that the delegation would reply in writing to the question that had been asked earlier concerning measures to improve employment opportunities for persons with disabilities.

7. **Ms. Pickering** (Namibia) said that the SME Bank had become operational in 2013. Like other institutions with similar mandates, such as the Development Bank of Namibia and the Agricultural Bank of Namibia (Agribank), it provided targeted, low-interest loans with a view to promoting development and reducing income inequality.

8. **Mr. Kayala** (Namibia) said that the right to organize was enshrined in both the Constitution and the Labour Act. As the Ministry of Labour operated on a tripartite basis with stakeholders, trade unions were actively involved in public policy development within the Ministry. The Government was not aware of any cases of workers in the mining sector being prevented from organizing. The Ministry provided a platform for stakeholders to negotiate collective agreements but it did not dictate the content of such agreements. Trade unions involved in those negotiations should be registered with the Office of the Labour Commissioner, have a minimum number of members and meet certain other organizational requirements.

9. **Mr. Martynov** said that he would like to know the actual impact of the three banks mentioned by the delegation in terms of the creation of small, medium and micro enterprises. He would also be interested to know whether there were any free export zones in Namibia and, if so, what trade union rights were enjoyed by workers employed in such zones. Lastly, he would appreciate a reply to his earlier question about the steps taken by the authorities to regularize the informal sector of the economy.

10. **Mr. Schrijver** (Country Rapporteur) said that he would welcome information on the level of trade union membership among workers, in particular those in the mining sector.

11. **Ms. Bras Gomes** asked what difference there was between the Old Age Pension Grant and the National Pension Fund. She would also like the delegation to clarify the status of special leave and whether workers in the private sector were entitled to it. She enquired whether the Government was considering any measures to ensure that low-income workers were able to afford social security contributions and whether it intended to establish a social protection floor to cater for the informal sector.

12. **Mr. Dyakugha** (Namibia) said that, as part of a strategy to attract international investment, the Government had introduced the Export Processing Zones Act in 1995. Although the Act provided for the suspension of the right to strike within such zones, other rights enshrined in the Labour Act continued to apply.

13. **Mr. Kayala** (Namibia) said that the Ministry of Labour had recently launched consultations on regulating the informal economy. Those operating in the informal sector were allowed to register with the Social Security Commission and were thus able to enjoy some of benefits provided by the Commission. The union with most members in the mining sector was the Mineworkers Union of Namibia; it played an active role in defending employee's rights, resolving labour disputes and providing the Government with guidance on how to improve the living conditions of mineworkers.

14. **Mr. Atangana** asked whether domestic violence was a criminal offence under current legislation and, if so, whether the delegation could provide information on the number of complaints and prosecutions that had been brought and convictions secured in that regard.

15. **Mr. Dasgupta** said that he noted the State party's claim, in its replies to the list of issues (E/C.12/NAM/Q/1/Add.1), that most of the alleged harmful traditional practices against women and girls, such as female genital mutilation and so-called sexual initiation practices, did not exist. Female genital mutilation, as defined by the World Health Organization (WHO), included diverse injuries done to female genital organs for non-medical reasons. The Committee was concerned in particular about allegations that the practice of forcible stretching of the *labia minora* persisted in certain areas of the Zambezi Region. He asked whether the allegations were accurate and, if so, what steps were being taken to eradicate such practices.

16. He requested recent statistics on the maternal mortality rate and the mortality rate of children under the age of 5.

17. Commendable progress had been made in addressing the problem of HIV/AIDS and a large proportion of affected persons received antiretroviral treatment. Almost 20 per cent, however, were not yet receiving treatment. He asked what steps were being taken to bridge the gap.

18. He noted that mobile clinics provided health services to remote communities. As such services were clearly limited, he asked whether general practitioners or doctors with basic training attached to mobile clinics were encouraged to use the Internet or videoconferencing to consult specialists in regional hospitals with a view to making advanced medical treatment available to remote communities.

19. **Mr. De Schutter** noted the shift in the agricultural sector from virtually exclusive support for large-scale commercial farmers to greater support for small-scale emerging farmers. He enquired about the measures being taken to help farmers in that category to move beyond subsistence agriculture and to become more commercially viable. In particular, he wished to know whether Agribank provided them with access to credit for the purchase of equipment. He also enquired about support for the emergence and functioning of local markets, including through the establishment of local processing facilities. He asked whether the State party had considered linking the school meals scheme to local support for small-scale farmers. Lastly, he wished to know whether there was a forum for dialogue in which unions of small-scale farmers, such as the Namibia National Farmers Union (NNFU), could contribute to the formulation of Namibian agri-food policies.

20. The ability of politically well-connected people to fence off communal land for their own benefit, having received authorization either from the traditional authorities or from Communal Land Boards, was a disturbing phenomenon, especially since such action was frequently taken at the expense of small-scale farmers, who thereby lost their livelihoods and had virtually no access to legal remedies since they lacked legally recognized title to the land. He invited the delegation to comment on the case that was currently pending in the Kavango Region and asked whether the Land Bill that had been in the pipeline since 2010 would strengthen security of tenure and protect small-scale farmers from such practices.

21. The Committee's general comment No. 12 on the right to adequate food encouraged States parties to adopt a national strategy on food and nutrition security that would define the requisite measures, specify a time frame, and assign responsibility to a particular authority in order to ensure accountability. He asked whether the Namibian Government intended to adopt such a strategy: one could be developed with the NNFU, NGOs and rural communities.

22. **Mr. Kedzia** said that the State party had not provided the updated data on the prevalence of child labour requested by the Committee. It was therefore difficult to assess the scale of the phenomenon and the effectiveness of the measures taken.

23. The Committee noted with appreciation that civil law took precedence over customary law. It had been informed, however, that 80 per cent of marriages were conducted under customary law. In that context, he requested clarification of the information contained in paragraph 226 of the State party's report (E/C.12/NAM/1), which stated that slightly over 28 per cent of the population aged 15 and over were married under civil law or traditional law, that only 19 per cent were married under civil law and that "never married persons" accounted for 56 per cent of the population.

24. The report also stated that customary law did not set a minimum age for marriage, but that marriage generally did not take place before puberty. He asked what

steps were being taken by the State party, in legal terms and in terms of education and awareness-raising, to change cultural traditions and stereotypes that failed to comply with Covenant standards.

25. According to the State party, the issue of the land rights of women who were married under customary law had been resolved by the Communal Land Reform Act. He asked to what extent the State was in a position to ensure compliance with the Act and whether potential rights holders had access to State-administered remedies if their rights were not respected.

26. **Mr. Pillay** asked whether the recommendations made to the State party by the Special Rapporteur on the human right to safe drinking water and sanitation had been implemented, for instance the recommendations to increase the number of water points in rural areas, to raise awareness, particularly among judges and lawyers, of the fact that water and sanitation were justiciable human rights, and to expand the Ombudsman's mandate to include the right to water and sanitation. He stressed the importance of ensuring that the Water Resources Management Act and the Water and Sanitation Sector Policy were implemented. It was also important to promote the implementation of the Environmental Management Act, particularly in order to address the problem of mining activities that were polluting the environment.

27. The Special Rapporteur on extreme poverty and human rights had found that women and children were disproportionately affected by poverty and that 34 per cent of children lived below the poverty line. Other vulnerable groups were persons with disabilities, persons living with HIV/AIDS and sex workers. He asked whether the State party had conducted an assessment of its poverty reduction strategy and whether there were specific measures for disadvantaged groups.

28. According to the Special Rapporteur on extreme poverty and human rights, access to land was a precondition for poverty reduction. There was a lack of affordable housing and land in the State party and 25 per cent of the population lived in informal settlements without security of tenure. Rents were generally unaffordable and were not subject to any formal control. There was also a lack of social housing, especially for older persons. The Committee had requested updated data about forced evictions. He asked whether the number of such evictions had increased and whether victims were protected by adequate legal safeguards and remedies, such as compensation or alternative accommodation. He also enquired about the scale of homelessness in the State party and the availability of shelters.

29. **Ms. Ravenberg** said that the Committee had been informed that some women with HIV-positive status had been subjected to forced sterilization and that the medical personnel involved had failed to obtain the women's informed consent. She asked what measures were being taken to halt forced sterilization of women living with HIV and to ensure that medical staff obtained patients' consent before performing any medical procedures.

30. She also enquired about measures taken to finalize the reproductive health policy initiated in 2009 and to eliminate female genital mutilation and all similar harmful practices.

31. The Committee had been informed that access to physical and mental health care for people in rural and remote areas was unreliable because of the lack of adequate health-care services and of transport to primary health-care facilities. Moreover, many patients suffered further or even died on account of poor infrastructure, lack of beds and a shortage of skilled health workers, managers and professionals. She enquired about measures taken to improve the accessibility, quality and efficiency of primary health-care services and to remedy the shortage of health-care professionals, and asked whether existing policies had been assessed and adjusted in light of the results.

32. She welcomed efforts to provide antiretroviral treatment for HIV/AIDS in the public sector. However, care services for people living with HIV/AIDS were still inadequate. Only 65 per cent of women and girls had access to services aimed at preventing mother-to-child HIV transmission. She enquired about measures to facilitate access to such services.

33. **Mr. Ribeiro Leão** said that, according to the State party's report, the main obstacles to poverty alleviation were HIV/AIDS, unemployment, inadequate access to and poor quality of social services, insufficient livestock and land, and poor road infrastructure. He asked whether the strategies to address those problems had produced positive results.

34. **Mr. Uprimny** asked what practical steps were being taken to reverse the recent rise in infant and maternal mortality. Referring to paragraph 318 of the report, he also asked what strategies were in place to reduce the disparities between private and public health-care providers and to make access to health care more equal.

35. **Mr. Martynov**, citing paragraph 278 of the report, on the failure of the land reform programme to address poverty, requested further details on the land reform. He wondered what the implications were of the Government's frank admission of failure. What percentage of farmers actually held title to the land they worked?

The meeting was suspended at 4.25 p.m. and resumed at 4.45 p.m.

36. **Mr. Kayala** (Namibia) said that the Old Age Pension Grant was a long-standing benefit, managed by the Ministry of Labour and funded through social security contributions; whereas the National Pension Fund had been introduced after a study had found that most private-sector workers, unlike civil servants, did not receive a retirement pension. Consultations were under way to improve the Fund.

37. **Ms. Likando** (Namibia) said that there was no paternity leave in Namibia. Special leave was intended to cover any situation not falling under sick leave, compassionate leave or maternity leave, but was not an alternative to paternity leave. There was currently no discussion of introducing benefits for fathers.

38. **Ms. Pickering** (Namibia) said that the issue of violence against women was very high on the Government's priority list. It remained quite widespread despite the adoption of the Combating Domestic Violence Act. Statistics were compiled, but it was difficult to obtain precise figures because cases were sometimes recorded twice under different categories of offences or recorded under another offence altogether. The Government continued to work with various stakeholders, including local NGOs, and was in the process of reviewing the Act to introduce harsher penalties and facilitate the timely issuance of protective orders. The very progressive Combating of Rape Act had also been adopted, and statistics on its enforcement were being kept.

39. **Ms. Likando** (Namibia), supported by **Mr. Ndjoze** (Namibia), contested the claim that female genital mutilation was practised in Namibia as there was no tangible evidence or police reports to support the allegation.

40. **Mr. Dasgupta** said that the Committee had obtained its information from the NANGOF Trust alternative report submitted to the Committee on the Elimination of Discrimination against Women in June 2015.

41. **Ms. Pickering** (Namibia) said that the delegation would refer the issue to the Inter-Ministerial Committee on Human Rights and International Humanitarian Law in order to ascertain the veracity of the reports.

42. **Mr. Tjivambi** (Namibia) said that the main strategy to address maternal mortality and access to health care was to increase the number of health-care providers. The first cohort of community-based health workers had been selected,

trained and deployed in two pilot regions. The six-month training programme covered skills such as identifying at-risk mothers and administering first aid, with a view to referring patients as early as possible in order to avoid unnecessary complications. The programme was now being rolled out in the rest of the country. In addition, nurses were being recruited from Zimbabwe and a programme had been put in place to enable medical personnel to be trained abroad. Other measures included providing early treatment of HIV/AIDS and improving emergency maternal and neonatal care.

43. A number of measures in addition to voluntary male circumcision were being taken to combat the spread of HIV/AIDS, including the medical circumcision of male infants, antiretroviral therapy, efforts to prevent mother-to-child transmission, public education and the distribution of male and female condoms. That combined approach was expected to lead to improved results.

44. Mobile clinics could not be connected to the Internet because they were merely designated outreach points — sometimes a simple tree — where villagers could be examined every two weeks by health-care professionals from the nearest clinic. Those with minor problems were treated on the spot, while more serious cases were referred to the nearest facility. Sterilization could be performed only with the person's consent, for which it was necessary to fill out an affidavit at a police station for submission to the health authority.

45. **Mr. Dyakugha** (Namibia) said that the problem of illegal fencing had arisen in 2000, and in response the Government had banned the practice under the Communal Land Reform Act. The Act also provided for the establishment of Communal Land Boards, which had the authority to issue notices for the removal of illegal fences. If the offender did not remove the fences voluntarily, the case was taken to the courts; however, the process could be quite lengthy. He was not in a position to comment on ongoing court cases.

46. The Environmental Management Act had been adopted in 2007 and had entered into force in early 2012. Under that Act, mining operations and major development projects could not go ahead unless environmental impact assessments were submitted to the Ministry of the Environment and Tourism and to other relevant authorities.

47. The right to housing was not explicitly enshrined in the Constitution, but in several cases the undue seizure of a person's house had been interpreted as a violation of the right to privacy, which was provided for in article 13 of the Constitution. Evictions in urban areas now occurred only where the local authority was the property owner and only after issuance of a court order. No longer were buildings simply demolished. They were taken down or removed in such a way that the materials could be reused by their owners. To mitigate the housing shortage, plans had been made to build 180,000 additional houses and upgrade thousands of structures in informal settlements by 2030. Information on customary land rights and leasehold in communal areas would be provided in due course.

48. **Mr. Kayala** (Namibia) said that Namibian labour inspectors were empowered to look into the prevalence of child labour in particular industries, such as agriculture and the retail trade, and that those industries had not been found to resort to the practice to any significant extent. There had, however, been reports in the media of children from neighbouring countries immigrating to Namibia in search of work.

49. **Ms. Pickering** (Namibia) said that reports of exploitation of children's labour in Namibia could be misinterpreted by people unfamiliar with Namibian child-rearing customs, which commonly involved families from the countryside sending their children to pursue their schooling in the cities, where they lived with extended family members and were expected to perform household chores.

50. **Mr. Kayala** (Namibia) said that the Government was currently drawing up a list of hazardous jobs showing what jobs could or could not be done by children and at what age.

51. **Mr. Kedzia** said that, although the State party's core report highlighted the role post offices played in facilitating communication in isolated areas, he would appreciate information on access to Internet, particularly in communities that were placed at a disadvantage by their isolation or poverty. He would also appreciate information on the results of the efforts that the Government had made to bring formerly marginalized minority communities into the mainstream of society. What were the Government's latest priorities in that respect?

52. **Mr. Kerdoun** asked whether the delegation could explain the reasons for a number of problems in the education sector. He wondered, for instance, why, despite the considerable efforts that had been made since independence, the State party had not yet built enough school facilities or hired enough qualified teachers and why only some 50 per cent of people with disabilities in the 15-24 age range had ever attended primary school. He also asked what accounted for the significant disparities in access to education between rural and urban areas and from one region or ethnic group to another. Why was free secondary education being instituted only in 2016, when, if he had understood correctly, the law that had provided for it had been adopted years earlier?

53. He wondered what measures Namibia had taken, or was planning to take, to act on recommendations by the United Nations Educational, Scientific and Cultural Organization (UNESCO) that it should do more to combat discrimination in schools against children of San and Himba origin. He also wished to know whether the Government had committed substantial resources to teacher training in minority languages and the development of teaching and learning materials in minority languages, so that all Namibian children had the opportunity to become literate in their mother tongue, as had been recommended by the Special Rapporteur on extreme poverty and human rights. Information on the results of any efforts made to follow that recommendation would be welcome, as would relevant educational statistics broken down by a number of factors, including disability, sex and region.

54. **Mr. Uprimny** asked what strategies the State party had put in place to provide access to early childhood education, especially for children from low-income families. He also asked whether any broad measures had been taken to encourage the provision of vocational education and training in secondary schools.

55. **The Chair** said that he would appreciate information on the specific legal status of the State party's distinct population groups, which were variously referred to in official documents as individual communities, cultural groups or ethnic groups. In that connection, he asked whether the Government had any plans to legally recognize the indigenous status of any particular population groups. He also asked what was being done to improve the socioeconomic situation of the Himba, the San, the Ovazemba and other relatively disadvantaged population groups. Local Authorities Act No. 6 of 1992 should be amended to reflect the current concerns of indigenous population groups. He took it that responsibility for indigenous welfare was within the scope of various agencies answering to the Ministry of Youth, National Service, Sport and Culture or the Ministry of Basic Education, Arts and Culture. Would it not be preferable to assign responsibility for indigenous affairs to a specific ministry?

56. **Mr. Kedzia** asked whether the Government was considering making thorough instruction in human rights a part of the school curriculum in grades other than 11 and 12 alone.

57. **Ms. Ravenberg** said that she had not heard whether female genital mutilation was explicitly criminalized, whether there had been any prosecutions in respect thereof and whether any related public awareness efforts had been made. The information about the forced sterilization of women with HIV had come from three NGOs, whose reports had referred to 40 such cases in 2010 and 2011.

58. **Mr. Schrijver** asked whether the voluntary payments parents could make to their children's primary schools were truly voluntary. He would appreciate a comment from the delegation on the possible relationship between the alarmingly high dropout rates in the State party and what appeared to be high rates of drug and alcohol use among its young people.

The meeting rose at 5.55 p.m.